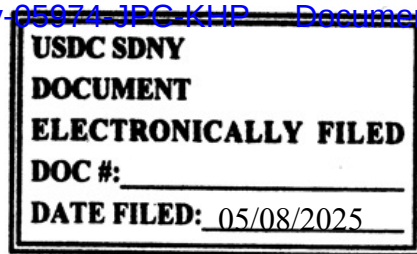


**Debevoise
& Plimpton**



May 7, 2025

The application is granted. The deadline is extended to May 28, 2025. (ECF No. 342.) The Clerk is respectfully directed to terminate the motion at ECF No. 344.

By ECF

The Hon. Katharine H. Parker
United States District Court
Southern District of New York
500 Pearl Street, Room 750
New York, NY 10007

SO ORDERED:

Katharine H. Parker
HON. KATHARINE H. PARKER
UNITED STATES MAGISTRATE JUDGE

05/08/2025

Re: *GMO Internet Group, Inc. et al. v. Whinstone US, Inc.*, No. 1:22-cv-05974-JPC-KHP (S.D.N.Y.)

Dear Judge Parker:

We represent Whinstone US, Inc. (“Whinstone”) in the above-referenced matter and write concerning Whinstone’s motion for sanctions (the “Motion”) which is due to be filed today, May 7 (*see* ECF No. 314 at 1), a deadline Whinstone is fully prepared to meet.

Yesterday, on the eve of Whinstone filing its Motion, counsel for GMO Gamecenter USA, Inc. and GMO Internet Group, Inc. (collectively, “GMO”) contacted Whinstone to inform it that GMO had just “potentially” uncovered certain miner data that it had not yet produced. (*See* Exhibit A, May 6, 2025 Correspondence.) This vague, severely belated revelation came more than two weeks *after* the close of fact discovery despite Whinstone tirelessly seeking this data from GMO for *years* and GMO repeatedly assuring both Whinstone and the Court that there was no outstanding miner data to produce. Indeed, counsel for GMO continued to emphatically assure Your Honor and Whinstone at the parties’ recent conference that GMO was *not* in possession of any additional miner data. (*See* Apr. 7 Hrg. Tr. at 16:10-11 (Ms. Thorne: “I can assure the Court that *we have produced everything*.”), 17:1-3 (“[W]ith respect to the miner data . . . *we’ve produced all of it*”), 18:10-11 (“*[W]e have produced all . . . that we have on that*”), 21:25-22:1 (“*[W]e don’t have anything else* for [Whinstone].”), 23:13-15 (“I feel like *the well has run dry* here. We’ve *given you all the information* we have.”), 24:18-19 (“*[W]hatever we have, they have*”), 29:3-5 (“*[W]e have provided . . . every bit of the data that anyone at GMO kept* for a business purpose.”).)

The timing of GMO’s supposed newfound discovery is telling, as it immediately followed Whinstone sharing the documents cited in its Motion with GMO (pursuant to Your Honor’s Individual Rules on sealing procedures), which included documents confirming that ***GMO was intentionally destroying its miner data from its servers without Whinstone’s knowledge as recently as October 2023*** – nearly *1.5 years* after GMO filed suit. And despite its current suggestion that additional miner data might exist, GMO has been unable to provide any concrete information regarding the time period this “potentially” new data covers, whether the data contains anything “different from the data that was already produced,” or what monitoring program the data is from (other than a hunch that it might be from the GMO Program). (*See* Ex. A.) GMO could not even provide Whinstone with any clarity on the timing in which it would be able to produce these files.

Notwithstanding GMO's inability to provide any concrete information regarding this potential new miner data, Whinstone is requesting, in good faith, an extension of time to file its Motion. An extension would provide GMO with sufficient time to collect, analyze and produce any outstanding miner data and would likewise provide Whinstone with sufficient time to review and analyze any newly produced materials. It was not possible for Whinstone to request an extension within the timeframe required by Your Honor's Individual Rules (at least 48 hours or 2 business days before the deadline) given GMO's belated update concerning the scope of miner data potentially in its possession. Whinstone has not made any prior requests for an extension of filing this Motion, and GMO consents to the extension request. (*See* Ex. A.)

Because it is uncertain when Whinstone will receive any forthcoming productions from GMO (if any at all), or how long it will take Whinstone to review and analyze any potential new data, the length of an appropriate extension is likewise uncertain. Whinstone therefore requests an extension of three weeks, until May 28, to file its Motion, while reserving the right to seek a further extension based on the timing of GMO's production.

Respectfully submitted,

/s/ Brandon Fetzer

Brandon Fetzer

bfetzer@debevoise.com

Exhibit A

Tancil, Jillian

From: Fetzer, Brandon
Sent: Tuesday, May 6, 2025 11:52 AM
To: 'Corey, Chelsea'; Tancil, Jillian; Alex Ng
Cc: Thorne, Leslie; Larkin, Alexandra; Freyberg, Michael; Bottini, Aishlinn
Subject: RE: GMO v Whinstone, Miner Data Motion

Hi Chelsea,

I just called you back. Please give me a call when you can.

Brandon

Brandon Fetzer | Counsel | Debevoise & Plimpton LLP | bfetzer@debevoise.com | +1 212 909 6880 | www.debevoise.com

This e-mail message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure. If you are not the intended recipient, please do not disseminate, distribute or copy this communication, by e-mail or otherwise. Instead, please notify us immediately by return e-mail (including the original message in your reply) and by telephone (you may call us collect in New York at 1-212-909-6000) and then delete and discard all copies of the e-mail. Thank you.
The latest version of our Privacy Policy, which includes information about how we collect, use and protect personal data, is at www.debevoise.com.

From: Corey, Chelsea <Chelsea.Corey@haynesboone.com>
Sent: Tuesday, May 6, 2025 11:26 AM
To: Fetzer, Brandon <bfetzer@debevoise.com>; Tancil, Jillian <jtancil@debevoise.com>; Alex Ng <alexng@quinnemanuel.com>
Cc: Thorne, Leslie <Leslie.Thorne@haynesboone.com>; Larkin, Alexandra <Alexandra.Larkin@haynesboone.com>; Freyberg, Michael <Michael.Freyberg@haynesboone.com>; Bottini, Aishlinn <Aishlinn.Bottini@haynesboone.com>
Subject: GMO v Whinstone, Miner Data Motion

EXTERNAL

Brandon,

I just called you at your desk. Late last night, in a meeting with GMO in preparation for Whinstone's spoliation motion, we learned that there is potentially a separate database where miner data was collected and stored. The client did not recall this separate repository throughout the course of our collections because it appears to be an automated z.com cloud storage that is separately maintained. We are working with GMO to collect this data as quickly as possible and, if it proves to be different from the data that was already produced, will produce the data as soon as we are able. Obviously, this could implicate Whinstone's motion that is set to be filed tomorrow. If it would like an extension of time to file that motion, we will consent to one.

While we appreciate the difficulty of the timing, we are hopeful that we may be able to provide additional miner data, as Whinstone has requested.

I am available to discuss further should you have any questions.

Thanks,

Chelsea

HAYNES BOONE

Chelsea Corey

She/Her/Hers

Partner

chelsea.corey@haynesboone.com

Haynes and Boone, LLP

650 S. Tryon Street

Suite 700

Charlotte, NC 28202

(t) +1 980.771.8251

(f) +1 980.771.8201

[vCard](#) | [Website](#)

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.